

**TOWN OF ELSMERE
PLANNING COMMISSION
MEETING MINUTES
May 5, 2009
6:30 P.M.**

PLEDGE OF ALLEGIANCE:

CALL TO ORDER:

ROLL CALL:

Commissioner Lindell – Present
Commissioner Sheldon – Absent
Commissioner Smith – Present
Commissioner Swain – Present
Commissioner Acton – Present
Chairman Backer – Present

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Approval of the minutes from the March 3, 2009 Planning Commission Meeting

ACTION: A motion was made by Commissioner Acton to approve the minutes of the March 3, 2009 Planning Commission Meeting. The motion was seconded by Commissioner Lindell.

VOTE:

All in favor VOTE: 5-0, with 1 Absent Motion Carried

NEW BUSINESS:

The Planning Commission Reviewed Petition 09-05 Tax Parcel Number 1900500057 known as 510 New Road.

Mr. Victor Rodriguez presented this petition, stating that this is a rental property and he would like to construct the driveway to allow off street parking, he stated that this would allow more on street parking for the neighboring properties as well.

Chairman Leon Backer asked if any commissioners have any questions or concerns regarding this petition.

Commissioner Lindell asked Mr. Rodriguez to verify that the driveway would be located on the Western Avenue side of the property and not the New Road side of the property.

Mr. Rodriguez verified that this was correct.

Commissioner Lindell questioned whether the driveway was to be concrete or asphalt.

Mr. Rodriguez stated that the driveway would be an asphalt driveway.

Commissioner Lindell asked Mr. Rodriguez how he planned to address the drainage for the proposed driveway so that it would not drain on neighboring properties.

Mr. Rodriguez responded that his intention is to have the driveway be graded and drain into the street.

Chairman Backer presented for the record that Mr. Rodriguez has had some of the neighboring property owner's sign a petition showing their support for the addition to his property.

Commissioner Lindell asked if the owner is doing the work or if he intends to use a contractor.

Mr. Rodriguez stated that he intends to use a contractor.

Chairman Backer stated that he is concerned with the amount of lot coverage and the pitch of the driveway for water runoff.

Mr. Rodriguez assured the chairman that he has all intentions of having the driveway pitch to the street for water runoff.

Patti Boyd from 600 New Road presented their opposition for this petition. They are concerned with losing the amount of green space, and water runoff. They feel that the Town should be looking at keeping green space. She also brought to the Commission's attention that Mr. Rodriguez did not receive any written support from any of the properties along Western Avenue, whom will be directly affected by this addition. She does not feel that there is a need to have off street parking at this property when the lot is already so small, and there is plenty of on street parking.

Don Bennett from 600 New Road stated that the homeowner is a nice gentleman, however they are concerned that by adding such driveway they will attract more cars to park at this property essentially voiding the purpose of adding the driveway in the first place.

Commissioner Robert Swain stated that there is adequate on street parking on New Road and Western Avenue for the tenants of this duplex. Also by adding an 18' wide driveway at the rear of the property he will be taking away 18' of on street parking, with an addition 5' on either side to allow the proper use of the driveway taking a total of 28' of parking away from Western Avenue.

ACTION: A motion was made by Commissioner Swain to recommend denial of Petition 09-05 Tax Parcel Number 1900500057 due to adequate current parking. The motion was seconded by Commissioner Acton.

VOTE:

All in favor VOTE: 5-0 with 1 Absent Motion Carried

The Planning Commission reviewed Petition 09-02 Tax Parcel Number 1900500060 known as 500 New Road.

Mr. Mark Sisk presented this application on behalf of the Sikh Center of Delaware.

Commissioner Swain asked if there was a proposed overview of the lot available.

This was provided by the Code Enforcement Department.

Commissioner Lindell asked if the Sikh Center had a hardship that would justify the necessity of a variance, other than a new edifice.

Mr. Sisk stated that he feels that a hardship is present when you want to replace an old building with a new edifice that lot is an old small lot that was created before the current building codes came into effect.

Mr. Sisk stated that they have gathered a letter of support from a number of the neighboring properties.

Chairman Backer asked if the applicant has considered changing the existing layout of the current structure, since they say that it is in good repair.

The applicant responded that they have looked into that, however when speaking with several contractors about the job it became apparent that it would be more cost effective to construct an all new building then to re-configure the load bearing walls.

Chairman Backer stated that he does not see a hardship to cause the application for a variance, with what the applicant has presented the chairman sees an inconvenience with wanted to modernize an outdated building that stands in good repair.

Commissioner Swain stated that he has in the past driven past this property during a worship service parking was at a minimum, the street and parking in the rear of the current structure were all full, and at that time there were certainly more than 12 cars in the rear property and the proposed parking lot will only hold 12, including the 2 ADA spaces, therefore parking would be at a further scarcity with the new building.

The applicant stated that he does not believe that there are currently more than 12 people parked in the rear yard on a regularly, however the new parking would be configured differently due to the loss of only 1 mature tree at the property. They are also more than willing to discuss with local businesses the use of their on site parking during worship service.

Commissioner Swain questioned that the proposed height does not exceed the maximum height limit of a building within the Town.

The applicant agreed that it will be exactly 35' tall which is the maximum height allowable by the Town of Elsmere Code.

The applicant stated that if it were cost effective to renovate the existing building into one large room they would have certainly done so, however they also feel that this is a good opportunity for the Town to have some re-development of older buildings into newer modern buildings. They do not wish to make the new structure any larger in footprint of the current structure, they wish to add a basement and a third floor.

Ms. Leslie Kelley the architect for Sihk center of Delaware stated that the applicant wishes to simply construct a new building that meets building code requirements as far as ADA Compliance, occupancy limits, life safety etc., it is a lot that has been used for the same purpose that is proposed for years, the only thing changing is that the construction of the building as far as compliance in building regulations will be brought into compliance with current structure codes.

Commissioner Swain asked if the applicant has an elevation drawing for the Western Avenue side of the Building.

Ms. Kelley stated that they are not certain of the exact construction of the building as far as construction materials and aesthetic looks of the building.

Mr. John DiFrancesco stated that the current residents are quiet and don't seem to cause any problems for the neighborhood. He feels that the thing that the commission should look at is that the Sihk Center of Delaware have spoken with him about this project and have expressed that if they are unable to build the new

building on the lot they will be caused to move out of the Town. He feels that the Commission should address the possible loss of a good resident in the Town. He is in favor of this petition.

Commissioner Acton asked the applicant how many square feet are they currently using for a worship area.

The applicant stated they are using roughly the entire footprint of the house except the bathroom and the stairs, however it is divided and not what they would like to see. Their congregation should be in the same room. They currently use approx. 1000sq.ft.

The applicant asked if they received a variance to lot area in 2001 for this property to be used as a church, shouldn't that variance still be in effect.

Chairman Backer explained that once the building is taken down, the variances no longer exist, the new building requires new variances.

Chairman Backer reminded the commission of the issues at hand and asked if there were any additional questions. He opened the floor to motions.

ACTION: A motion was made by Commissioner Lindell to recommend denial of Petition 09-02 Tax Parcel Number 1900500060 based on the 2 Acre minimum lot size, the lack of required parking and building setback. The motion was seconded by Commissioner Acton.

VOTE:

All in favor VOTE: 5-0 with 1 Absent Motion Carried

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

Chairman Backer presented a letter submitted by Commissioner Burg renouncing his position of Planning Commissioner to accept the position of 2nd District Councilman.

OLD BUSINESS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

ACTION: A motion was made by Commissioner Swain to adjourn. The Motion was seconded by Commissioner Smith.

VOTE:

All in favor VOTE: 5-0 with 1 Absent Motion Carried

At this time the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the May 5, 2009 Planning Commission Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

LEON BACKER, CHAIRMAN

CHARLES LINDELL, SECRETARY